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Appln. No. 10/804,448

Attorney Docket No. 10541-1942

III. Remarks

Reconsideration and re-examination of this application in view of the above amendments and the following remarks is herein respectfully requested.

Claims 1-25 remain pending.

Claim Rejections – 35 U.S.C. §103

Claims 1-25 were rejected under 35 U.S.C. §103(a) as being unpatentable over Japanese patent 360022021 in view of Japanese patent 403107522A in view of U.S. Patent 5,475,189 to Field et al. (Field).

With respect to claims 1, 10 and 19, Applicant suggests that a *prima facie* case for obviousness has not been established by the examiner. "The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness." MPEP §2142. Further, the MPEP §2143.01 provides:

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

The examiner has not provided factual support that the prior art suggests the combination of references as the examiner contends.

A combination of JP '021 and Field is also not appropriate because Field teaches a resonator with two chambers in series with the airflow, while JP '021 and JP '522 teach resonators adjacent to the airflow. Therefore, utilizing a valve



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in conjunction with either of the two chambers in Field would serve to stop airflow altogether thereby defeating the purpose of each of the references. Accordingly, the designs are not readily compatible and the combination would not have been obvious.

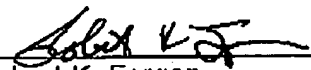
New Claims

Claims 26, 27, and 28 recited "wherein moving the movable member increases the first volume while decreasing the second volume". Clearly this feature teaches against the principles of the Field reference as the volumes of the Field reference both increase or decrease together with one another.

Conclusion

In view of the above amendments and remarks, it is respectfully submitted that the present form of the claims are patentably distinguishable over the art of record and that this application is now in condition for allowance. Such action is respectfully requested.

Respectfully submitted by,

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